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7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9 DAVID HOUGH, et al.,

10 Plaintiffs,

11 v.

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13 RYAN CARROLL, et al.,

14 Defendants.
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Case No.: 2:24-cv-02886-WLH-SKx

**AMENDED ORDER RE
PLAINTIFFS' *EX PARTE* MOTION
FOR CONTINUANCE [52]**

16 On May 15, 2024, Plaintiffs filed an *Ex Parte* Motion for Continuance Regarding
17 Defendants' Motion to Dismiss and Motion to Compel Arbitration. (Mot., Docket No.
18 52). On May 17, 2024, the Court issued an Order Granting Plaintiffs' *Ex Parte* Motion
19 as unopposed and continuing the hearings to the next available hearing date of June 28,
20 2024, or a later date to be chosen by Defendants. (Order, Docket No. 53). Later that
21 day, Defendants filed their Opposition to Plaintiffs' *Ex Parte* Motion.¹ (Opp'n, Docket
22 No. 54). The Court now amends the Order to discuss Defendants' arguments in
23 opposition to the Motion.

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26 ¹ While Defendants opposed the *Ex Parte* Motion within forty-eight hours, as required by this
27 Court's rules, they did not inform the Court's Courtroom Deputy that they would be opposing. *See*
28 Standing Order for Newly Assigned Civil Cases at 17 ("The opposing party should advise the CRD
as soon as possible whether it intends to oppose the *ex parte* application.").

1 Defendants' Motion to Dismiss and Motion to Compel Arbitration were
2 originally scheduled to be heard on June 7, 2024. Based on that hearing date, Plaintiffs'
3 oppositions to Defendants' Motions were due May 17, 2024. In their Motion, however,
4 Plaintiffs stated that they planned to file an amended complaint by May 20, 2024, in
5 which they would propose a putative class to include representative plaintiffs whose
6 claims are not arbitrable. (*Id.* at 1–2). Plaintiffs informed the Court of their intention
7 to amend the complaint at the last hearing before the Court on May 13, 2024.

8 At the outset, the Court agrees with Defendants that *ex parte* applications are
9 solely for extraordinary relief and should be used with discretion. *See Mission Power*
10 *Eng'g Co. v. Cont'l Cas. Co.*, 883 F. Supp. 488 (C.D. Cal. 1995); (Opp'n at 8). A
11 continuance of hearing dates is rarely an emergency; this Motion could and should have
12 been brought sooner. Nevertheless, the Court recognizes that Defendants would not
13 agree to stipulate to the continuance, requiring Plaintiffs to file this Motion on an *ex*
14 *parte* basis. (Mot. at 4). Moreover, while Defendants correctly point out that this is
15 Plaintiffs' third *ex parte* motion, (Opp'n at 8), the Court found that the previous two *ex*
16 *parte* motions—which sought to freeze Defendants' assets and to conduct expedited
17 discovery—were true emergencies that warranted *ex parte* relief. (*See* Temporary
18 Restraining Order, Docket No. 17; Order re *Ex Parte* Mot. for Expedited Discovery,
19 Docket No. 42). The Court therefore does not find that Plaintiffs' *ex parte* filings are
20 “an abuse of the *ex parte* process,” as Defendants contend. (Opp'n at 8).

21 Defendants also state that a continuance “would allow Plaintiffs to file numerous
22 additional *ex parte* motions seeking further orders from the Court in the interim and
23 conduct[] class-discovery[,] and other discovery law and motion practice would
24 certainly erase the majority, if not all, of the benefits of arbitration.” (*Id.* at 14). Should
25 any further *ex parte* motions be filed in the future, the Court will decide them on their
26 merits at that time. The instant Motion, however, seeks only limited relief. The Court
27 does not find that a three-week continuance to its next available hearing date would
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1 “erase” the benefits of arbitration, should the Court grant Defendants’ Motion to
2 Compel.


3 Finally, granting the Motion will promote efficiency in this matter. In its
4 previous Order, the Court found good cause to grant the requested continuance because
5 “[t]he amended class complaint may moot Defendants’ Motion to Dismiss” and
6 “Defendants may wish to respond to Plaintiffs’ new allegations regarding ineffectual
7 arbitration clauses in an amended motion to compel arbitration.” (Order at 2).
8 Defendants now state that a class complaint “would not change the merits of the Motion
9 to Compel Arbitration or Motion to Dismiss.” (Opp’n at 9). Nevertheless, because the
10 Court is granting the continuance, Defendants may still amend their motions should
11 they change their minds. Moreover, allowing the parties to address the new class
12 claims in further briefing on Defendants’ motions will permit the Court to holistically
13 consider the motions in light of the new allegations instead of making piecemeal
14 rulings.

15 The Court therefore **GRANTS** the Motion and **ORDERS** as follows:

- 16 1. The hearing on Defendants’ Motion to Compel Arbitration [39] and Motion
17 to Dismiss [40] is continued from June 7, 2024, to June 28, 2024; and
18 2. If Defendants wish to file a new motion to compel and/or motion to dismiss,
19 they must follow the schedule set forth in the Local Rules. That is, so long
20 as the new motions are filed and served on or before May 31, 2024, the
21 hearing will remain scheduled for June 28, 2024. If the new motions are filed
22 after that, Defendants must pick a new hearing date no earlier than 28 days
23 after the filing date, and the June 28, 2024, hearing date will be vacated.

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25 **IT IS SO ORDERED.**

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27 Date: May 17, 2024


HON. WESLEY L. HSU
UNITED STATES DISTRICT JUDGE